

AMENDED IN ASSEMBLY APRIL 10, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 218

Introduced by Assembly Member Dickinson

February 4, 2013

An act to add Section 432.9 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 218, as amended, Dickinson. Employment applications: criminal history.

Existing law prohibits both public and private employers from asking an applicant for employment to disclose, either in writing or verbally, any information concerning an arrest or detention that did not result in a conviction.

This bill would prohibit a state or local agency from asking an applicant to disclose information regarding a criminal conviction, except as specified, ~~until after the applicant's qualifications for the position have been determined to meet the requirements~~ *the agency has determined the applicant meets the minimum employment qualifications* for the position. This bill would include specified findings and declarations of the Legislature in support of this policy.

Because this bill would impose new requirements on local agencies relative to employment application procedures, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that reducing
2 barriers to employment for people who have previously offended,
3 and decreasing unemployment in communities with concentrated
4 numbers of people who have previously offended, are matters of
5 statewide concern. Therefore, this act shall apply to state agencies,
6 all cities and counties, including charter cities and charter counties,
7 and special districts. The Legislature further finds and declares
8 that, consistent with the 2011 Realignment Legislation addressing
9 public safety, increasing employment opportunities for people who
10 have previously offended will reduce recidivism and improve
11 economic stability in our communities.

12 SEC. 2. Section 432.9 is added to the Labor Code, to read:

13 432.9. (a) A state or local agency shall not ask an applicant
14 for employment to disclose, ~~through any written form or verbally,~~
15 ~~orally or in writing,~~ information concerning the ~~criminal~~
16 ~~conviction~~ history of the ~~applicant or include applicant, including~~
17 any inquiry about ~~criminal conviction~~ history on any ~~initial~~
18 ~~employment application. A state or local agency may inquire into~~
19 ~~or consider an applicant's criminal history after the applicant's~~
20 ~~qualifications have been screened and employment application~~
21 ~~until the agency has determined the applicant meets the minimum~~
22 ~~employment requirements~~ *qualifications*, as stated in any notice
23 issued for the position.

24 (b) This section shall not apply to a position for which a state
25 or local agency is otherwise required by law to conduct a ~~criminal~~
26 ~~conviction~~ history background check, to any position within a
27 criminal justice agency, as that term is defined in Section 13101
28 of the Penal Code, or to any individual working on a temporary
29 or permanent basis for a criminal justice agency on a contract basis
30 or on loan from another governmental entity.

1 (c) This section shall not be construed to prevent a state or local
2 agency from conducting a ~~criminal~~ *conviction* history background
3 check after complying with all of the provisions of subdivision
4 (a).

5 (d) As used in this section, “state agency” means any state office,
6 officer, department, division, bureau, board, commission, or
7 agency.

8 (e) As used in this section, “local agency” means any county,
9 city, city and county, including a charter city or county, or any
10 special district.

11 (f) Section 433 does not apply to this section.

12 SEC. 3. If the Commission on State Mandates determines that
13 this act contains costs mandated by the state, reimbursement to
14 local agencies and school districts for those costs shall be made
15 pursuant to Part 7 (commencing with Section 17500) of Division
16 4 of Title 2 of the Government Code.